

# CAMPAIGN FINANCE REFORM?: POSSIBILITIES OR PIPE DREAMS

A RESEARCH FELLOWSHIP FOR THE CENTRE FOR THE STUDY OF THE PRESIDENCY & CONGRESS

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## ABSTRACT

The deregulation of campaign finance is responsible for an influx of money into the American election system. The flow of unregulated money in the United States political arena is damaging to the integrity of the government, but due to the encompassing nature of First Amendment rights, the path to reform is a convoluted one. Despite the obstacles, the need for reform is evident, there are unprecedented amounts of money flowing into American elections, and the consequences continue to grow. I suggest that reformists work together to build a case around the logic of electoral integrity, in the hope that it can persuade a more liberal Supreme Court in the future, to reverse the effects of the *Citizens United* decision by passing new jurisprudence.

## INTRODUCTION

In this paper I ask whether campaign finance reform is possible, and if so, what is the best way to approach reform given the legal decisions over the last six years. Because campaign finance jurisprudence is tied so closely to first amendment rights, those tasked with building a case for reform have to work within the context of rights of free speech, in order to achieve a method for reform that can withstand constitutional jurisprudence. Due to the jurisprudence determined by The Supreme Court, campaign finance reformers are left walking a constitutional tightrope, and scholars in the field have been forced to get creative to try and advocate for reform. The question standing between reformists and reform is, what argument is capable of working around the current campaign finance jurisprudence given the convoluted nature of first amendment rights. It is necessary for prominent scholars in the field to work together and agree upon an approach that can sufficiently tackle current campaign finance law. It is my suggestion that that approach should be to prepare a case, built around Robert Post's idea of *electoral integrity*, to present in the future to a more liberal Supreme Court. The literature I chose to use is from prominent scholars of constitutional law and campaign finance. By examining journal articles of the ongoing debates within the field, I was able to review a range of opinions, approaches and methods for campaign finance reform, and also raise the skeptical questions about the robustness of those approaches.

## METHODOLOGY

I took a qualitative approach to this problem and elected to review the most prominent constitutional law scholars in the country, in the hope I could compile varied approaches to campaign finance reform. However, before I could begin to review the approaches, I had to confirm that campaign finance reform was a necessary step forward in the preservation and improvement of the American republic. Once I had established that reform was indeed a necessary step to preserve the legitimacy of the republic, I reviewed many top constitutional law scholars, many of whom focus on campaign finance and was able to narrow down the vast number of approaches to what I found to be the three most compelling approaches. Once narrowed down to three, I was able to explore the legitimacy of the arguments and read commentary both critiquing and praising the approaches in order to decipher which approach had the best chance of achieving reform moving forward. After careful deliberation I decided on my recommendation and attempted to further cement the legitimacy of my recommendation by searching for flaws in the argument I had selected.

## CONCLUSION

I found that electoral integrity, at the very least, is an approach worth deeper enquiry by those with the means to better qualify its potential. It is my hope that scholars, such as the ones cited in this essay, work together to build an argument around electoral integrity that could potentially persuade a future, more liberal Supreme Court to reverse the *Citizens United* decision or build an alternative constitutionally grounded argument from which to approach the Court when the times comes.

## THE FELLOWSHIP

Although the research paper was the focus of my fellowship and conducting the research vastly improved my knowledge of American constitutional debates and campaign finance reform, the most valuable aspect of the fellowship was the two CSPC conferences in Washington D.C. The chance to interact and converse with some of the sharpest young political minds in the country is one of the most intellectually stimulating experiences of my life and has hugely contributed to my growth as an academic, and a human and certainly left me more hopeful about the future of the American political system.